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BULLETIN 88-3

TO: ALL ADMITTED INSURANCE CARRIERS OFFERING
NO-FAULT AUTOMOBILE INSURANCE

FROM: COMMISSIONER EARL R. POMEROY

DATE: April 20, 1988

SUBJECT: Recent Legislation Regarding PIP Benefits

The 1987 Legislative Assembly approved Senate Bill No. 2413 which amends N.D.C.C. § 26.1-41-13(3) relating to the coordination of insurance benefits paid for economic loss incurred as a result of accidental bodily injury sustained in automobile accidents. This bill provides that "A basic no-fault insurer authorized to do business in this state may coordinate any benefits it is obligated to pay for medical expenses incurred as a result of accidental bodily injury in excess of Five Thousand Dollars. This bill was intended as a health care cost containment measure allowing no-fault insurance carriers to coordinate benefits with health insurers. Under the new law, health insurers are the primary insurance carrier after the first Five Thousand Dollars in personal injury protection benefits have been paid by a no-fault automobile insurance carrier. No-fault insurance carriers are authorized to coordinate benefits over the Five Thousand Dollar threshold. However, insurance companies must file amendments to their policies with this Department to take advantage of this permissible coordination of benefits provision. If policies are not amended, both the health insurance carrier and the no-fault insurance carrier may be required to pay duplicate benefits for medical expenses incurred on behalf of the covered individuals.

It appears that the new law would greatly reduce the exposure of no-fault automobile insurance carriers for medical expense benefits if their policies contain a coordination of benefits provision. To date, the Insurance Department has received very few company filings to amend policies to provide a coordination of benefits provision. If a filing is made it may only be approved if accompanied by an "equitable reduction or savings in the direct or indirect cost of purchased benefits." This Bulletin is issued to remind insurance companies of their right to make such a filing, which in our opinion will likely result in reductions in premiums charged to policyholders commensurate with the reduced loss exposure realized by the companies making this filing.

All inquiries regarding this matter should be directed to either Mr. Larry Maslowski, Property & Casualty Rate & Forms Analyst or Merle T. Pederson, Assistant Attorney General, North Dakota Insurance Department, (701) 224-2440.